

IN THE SUPREME COURT
OF THE STATE OF OREGON

In Re:)
)
LORI E. DEVENY) FORM B RESIGNATION
Bar No. 893350)
) Case Nos. 18-10, 18-11, 18-12,
) 18-61, 18-62, 18-83
) & 18-84
_____)

State of Oregon)
)
County of Multnomah) ss.

I, Lori E. Deveny, being duly sworn on oath, depose and say that my principal office for the practice of law or other business is located at 1020 SW Taylor, Suite 690, Portland, Oregon; that my residence address is 7307 SE 133rd Place, Portland, Oregon; and that I hereby tender my resignation from membership in the Oregon State Bar and request and consent to my removal from the roster of those admitted to practice before the courts of this state and from membership in the Oregon State Bar.

I am aware that there is pending against me a formal complaint concerning alleged misconduct and/or that complaints, allegations or instances of alleged misconduct by me are under investigation by the Oregon State Bar and that such complaints, allegations and/or instances include: A First Amended Formal Complaint (Case Nos. 18-10, 18-11, 18-12, 18-61 & 18-62), a true copy of which is attached hereto and incorporated by this reference, alleging violations of RPC 1.3 (neglect of a legal matter); RPC 1.4(a) (duty to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information); RPC 1.4(b) (duty to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation); RPC 1.15-1(d) (duty to notify of receipt of funds, account for funds, and promptly provide funds); RPC 3.3(a) (knowing false statement to the court); RPC 8.1(a)(2) (duty to respond to a lawful demand for information from a disciplinary authority); RPC 8.4(a)(2) (criminal conduct reflecting adversely on honesty, trustworthiness, or fitness as a

lawyer); and RPC 8.4(a)(3) (conduct involving fraud, dishonesty, deceit or misrepresentation).

2. An investigation of a complaint made by Stephen Ngai (Case No. 18-83), alleging conduct that implicates RPC 1.3 (neglect of a legal matter); RPC 1.4(a) (duty to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information); RPC 1.4(b) (duty to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation); RPC 1.15-1(d) (duty to notify of receipt of funds, account for funds, and promptly provide funds); RPC 8.1(a)(2) (duty to respond to a lawful demand for information from a disciplinary authority); RPC 8.4(a)(2) (criminal conduct reflecting adversely on a lawyer's honesty, trustworthiness, or fitness to practice law); and RPC 8.4(a)(3) (conduct involving fraud, dishonesty, deceit or misrepresentation)

3. An investigation of a complaint made by Nikki Lee (Case No. 18-84), alleging conduct that implicates RPC 1.1 (duty to provide competent representation); RPC 1.3 (neglect of a legal matter); RPC 1.4(a) (duty to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information); RPC 1.4(b) (duty to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation); RPC 1.15-1(d) (duty to notify of receipt of funds, account for funds, and promptly provide funds); RPC 1.16(a) (1)-(3) (duty to withdraw when required by rule, the lawyer's condition, or termination by the client); RPC 1.16(d) (duty to take reasonable steps upon the termination of representation to protect client interests, including the return of client funds and property); RPC 4.1(a) (material false statements to third parties in connection with representation of a client); RPC 4.2 (improper communication with a represented party); RPC 5.5(a) (engaging in the practice of law in violation of the regulation of the legal profession in that jurisdiction); RPC 8.4(a)(2) (criminal conduct reflecting adversely on a lawyer's honesty, trustworthiness, or fitness to practice law); and RPC 8.4(a)(3) (conduct involving fraud, dishonesty, deceit or misrepresentation).

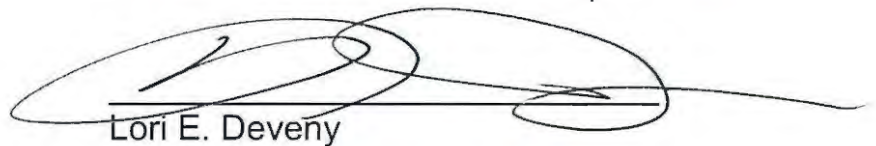
I do not desire to contest or defend against the above-described complaints, allegations or instances of alleged misconduct. I am aware of the rules of the Supreme Court and of the bylaws and rules of procedure of the Oregon State Bar with respect to admission, discipline, resignation and

reinstatement of members of the Oregon State Bar. I understand that any future application by me for reinstatement as a member of the Oregon State Bar is currently barred by BR 9.4, but that should such an application ever be permitted in the future, it will be treated as an application by one who has been disbarred for misconduct, and that, on such application, I shall not be entitled to a reconsideration or reexamination of the facts, complaints, allegations or instances of alleged misconduct upon which this resignation is predicated. I understand that, on its filing in this court, this resignation and any supporting documents, including those containing the complaints, allegations or instances of alleged misconduct, will become public records of this court, open for inspection by anyone requesting to see them.

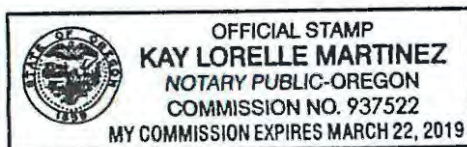
This resignation is freely and voluntarily made; and I am not being, and have not been, subjected to coercion or duress. I am fully aware of all the foregoing and any other implications of my resignation.


I hereby certify that all client files and client records in my possession have been or will be placed promptly in the custody of Jodie Phillips Polich, OSB No. 935585, a resident Oregon attorney, whose principal office address is PO Box 220119, Milwaukie, Oregon, 97269, whose principal email is jodie@phillipspolich.com, and that all such clients have been or will be promptly notified accordingly.

Dated at 1:17 pm, this 24th day of May, 2018.

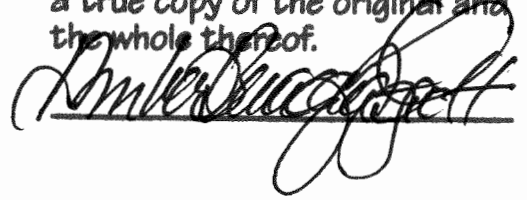

Lori E. Deveny

Subscribed and sworn to before me this 24th day of May, 2018.




Notary Public for Multnomah County
My Commission Expires: 3/22/19

I certify that this document is
a true copy of the original and
the whole thereof.



IN THE SUPREME COURT
OF THE STATE OF OREGON

In re:

Complaint as to the Conduct of

LORI E. DEVENY,

Respondent.

Case Nos. 18-10, 18-11, 18-12,
18-61 & 18-62

FIRST AMENDED FORMAL COMPLAINT

For its FIRST CAUSE OF COMPLAINT against the Respondent, Lori E. Deveny
("Deveny"), the Oregon State Bar ("Bar") alleges:

1.

The Bar was created and exists by virtue of the laws of the State of Oregon and is,
and at all times mentioned herein was, authorized to carry out the provisions of ORS
Chapter 9, relating to the discipline of attorneys.

2.

Deveny is, and at all times mentioned herein was, an attorney at law, duly admitted
by the Supreme Court of the State of Oregon to practice law in this state and a member
of the Bar, having her office and place of business in the County of Multnomah, State of
Oregon.

Case No. 18-10
Carol Brown Complaint

3.

On or about March 16, 2011, Carol L. Brown ("Brown") hired Deveny to represent
her in connection with uninsured motorist ("UIM") claims stemming from a March 20,
2010 auto accident. Brown's insurance company was State Farm Mutual Automobile

1 Insurance Company ("State Farm"). Deveny represented to Brown that her type of case
2 usually could be finished within a year.

3 4.

4 On or about November 30, 2011, State Farm sent \$100,000 to Deveny on behalf of
5 Brown in settlement of Brown's claims. The check was made payable to "LORE DEVENY
6 CLIENT TRUST ACCT FOA CAROL BROWN." ("Brown Settlement Funds"). Deveny endorsed
7 the check and deposited the Brown Settlement Funds into her pooled lawyer trust
8 account ending 9911 ("IOLTA Account"). Deveny knowingly and intentionally failed to
9 disclose to Brown her receipt of the Brown Settlement Funds or the amount of the Brown
10 Settlement Funds, information which was necessary for Brown to be able to make
11 informed decisions about her case from that point forward. Deveny did not provide any
12 portion of the Brown Settlement Funds to Brown.

13 5.

14 In or around March 2012, Deveny reported to Brown that State Farm was unwilling
15 to settle and was "not appropriately valuing [her] claim." Deveny also reported to Brown
16 that State Farm wanted to depose her. Having already received the Brown Settlement
17 Funds, Deveny's representations to Brown regarding State Farm's willingness to settle
18 and desire to depose her were false and material and Deveny knew that they were false
19 and material when she made them.

20 6.

21 Sometime later, Deveny represented to Brown that the scheduled deposition had
22 to be postponed because the State Farm agent had a death in the family. Having already
23 received the Brown Settlement Funds, Deveny's representations to Brown regarding the
24 alleged deposition and the reason for its postponement were false and material and
25 Deveny knew that they were false and material when she made them.

1 7.

2 Deveny later represented to Brown that the re-scheduled deposition had to again
3 be postponed because the case had been reassigned to another State Farm agent. Having
4 already received the Brown Settlement Funds, Deveny's representations to Brown
5 regarding the alleged deposition and the reason for its postponement were false and
6 material and Deveny knew that they were false and material when she made them.

7 8.

8 In October 2012, Deveny sent a letter to Brown, asserting that she was still
9 attempting to obtain needed records from one of Brown's medical providers, Kaiser. In
10 November 2012, Deveny sent a follow-up letter indicated that she had received Brown's
11 Kaiser medical records "at long last" and would be back in touch following her review of
12 the records. Deveny assured Brown that "we are making progress." Having already
13 received the Brown Settlement Funds, Deveny's representations to Brown regarding her
14 need for and the necessity to review Brown's medical records were false and material and
15 Deveny knew that they were false and material when she made them.

16 9.

17 In early to mid-2013, Deveny reported to Brown that State Farm had made an
18 "initial offer" of \$20,000 which Deveny had declined without consulting with Brown,
19 implicitly because it was woefully inadequate. Having already received the Brown
20 Settlement Funds, Deveny's representations to Brown regarding an alleged settlement
21 offer and her response to it were false and material and Deveny knew that they were false
22 and material when she made them.

23 10.

24 At or about the same time, Deveny told Brown that she would attempt to negotiate
25 down the medical lien on the settlement, which was substantial. Deveny's representation

1 to Brown that there was a medical lien on her settlement was false and material and she
2 knew that it was false and material at the time that she made it.

3 11.

4 In around late 2014 or early 2015, Deveny reported to Brown that she had
5 obtained a settlement with both State Farm and Brown's medical insurer, Kaiser
6 ("Purported Settlement"). Deveny told Brown that she had gotten Kaiser to agree not to
7 take any portion of her settlement if it were \$40,000 or less. Deveny's representations to
8 Brown regarding her efforts with Brown's medical creditors and the amount of the
9 settlement were false and material and Deveny knew that they were false and material
10 when she made them. Deveny had Brown come in and sign a "settlement agreement"
11 that reflected the amount of the Purported Settlement (*i.e.*, \$40,000). Deveny did not give
12 Brown a copy of this "settlement agreement," nor did she advise Brown of the true
13 amount of the settlement.

14 12.

15 At and after the time of the Purported Settlement, Deveny represented to Brown
16 that the disbursement of any of the \$40,000 Deveny claimed to have obtained in settlement
17 was contingent on confirmation by Medicare that they did not have an outstanding lien
18 ("Brown Medicare Lien"). Deveny's representation to Brown regarding a purported
19 Brown Medicare Lien was false and material and Deveny knew that it was false and
20 material when she made it. Brown was neither a Medicare nor a Medicaid recipient.

21 13.

22 In a letter dated January 17, 2017, Deveny represented to Brown that Deveny
23 could still not disburse any portion of the settlement proceeds (which Brown believed to
24 be only \$40,000) until the Brown Medicare Lien issue was resolved. Deveny's
25 representations to Brown regarding the purported Brown Medicare Lien, as well as any

1 impact such a lien had on Deveny's ability to provide Brown with any portion of the
2 settlement proceeds were false and material and Deveny knew that they were false and
3 material when she made them.

4 14.

5 In or around March 2017, Deveny represented to Brown that the person working
6 for Medicare that had been tasked with determining the existence or amount of the
7 Brown Medicare Lien had been fired and that Brown's file had been transferred to
8 another employee. Deveny's representations to Brown regarding the existence and status
9 of any Brown Medicare Lien were false and material and Deveny knew that they were
10 false and material when she made them.

11 15.

12 In or around May 2017, Deveny reported to Brown that she was personally driving
13 to Seattle to retrieve Brown's file from the Medicare office and personally deliver it to
14 another office so that the needed review and approval of Brown's file could be
15 completed. This representation was false and material and Deveny knew that it was false
16 and material when she made it.

17 16.

18 On or about September 21, 2017, Deveny hand-delivered a letter to Brown in
19 which she asserted that Brown's claim was still being held, waiting for approval from
20 Medicare. This representation was false and material and Deveny knew that it was false
21 and material when she made it.

22 17.

23 In or around mid-November 2017, Brown inquired of State Farm directly and found
24 that the Brown Settlement Funds (\$100,000) had been issued to Deveny in November
25 2011 in payment of her UIM claim.

18.

On or about April 10, 2018 (after being personally served with the Bar's Formal Complaint), Deveny tendered Brown a check in the amount of \$66,667, allegedly representing Brown's portion of the Brown Settlement Funds, along with a letter confirming that there had been no costs or liens assessed on the Brown Settlement Funds.

19.

The aforesaid conduct of Deveny constituted failure to keep her client reasonably informed of the status of her matter; a failure to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation; failure to notify a client of receipt of funds in which a client has an interest and failure to promptly deliver client funds which the client was entitled to receive; and conduct involving dishonesty and misrepresentation (series of false representations directed at and a scheme to mislead her client), in violation of the following standards of professional conduct established by law and by the Bar:

- A. RPC 1.4(a);
- B. RPC 1.4(b);
- C. RPC 1.15-1(d); and
- D. RPC 8.4(a)(3) of the Oregon Rules of Professional Conduct.

AND, for its SECOND CAUSE OF COMPLAINT against Deveny, the Bar alleges:

20.

Realleges and incorporates by reference the allegations of its First Cause of Complaint as if fully set forth herein.

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21.

Between on or about November 30, 2011 and February 28, 2012, Deveny knowingly and intentionally removed all, or nearly all, of the Brown Settlement Funds from her IOLTA Account and knowingly and intentionally converted them to her own personal use, and for matters unrelated to Brown or her legal matter.

22.

At all times relevant herein, ORS 164.057 provided, in relevant part, that a person commits the crime of aggravated theft in the first degree (a Class B felony) if, with intent to deprive another of property or to appropriate property to the person, the person takes, appropriates, obtains or withholds such property from an owner thereof, and the total value of the property in a single or aggregate transaction is \$10,000 or more.

23.

The aforesaid conduct of Deveny constituted criminal conduct reflecting adversely on her honesty, trustworthiness, or fitness as a lawyer; and conduct involving fraud, dishonest, deceit or misrepresentation (knowing conversion of client funds), in violation of the following standards of professional conduct established by law and by the Bar:

- A. RPC 8.4(a)(2); and
- B. RPC 8.4(a)(3) of the Oregon Rules of Professional Conduct.

AND, for its THIRD CAUSE OF COMPLAINT against Deveny, the Bar alleges:

24.

Realleges and incorporates by reference the allegations of its First and Second Causes of Complaint as if fully set forth herein.

1 25.

2 On or about November 29, 2017, Disciplinary Counsel's Office ("DCO") received a
3 complaint from Brown about Deveny's conduct. By letter dated December 6, 2017, DCO
4 requested Deveny's response to this complaint. The letter was addressed to Deveny at
5 1020 SW Taylor Street, Suite 690, Portland, OR 97205, the address then on record with
6 the Bar ("record address") and was sent by first class mail. The letter was not returned
7 undelivered, and Deveny did not respond to the letter.

8 26.

9 By letter dated January 19, 2018, DCO again requested Deveny's response to
10 Brown's complaint. The letter was addressed to Deveny at the record address and was
11 sent by both first class and by certified mail, return receipt requested. The letter was also
12 sent to ledeveny@att.net, the email address then on record with the Bar. The certified
13 letter was returned "unclaimed" but neither the first class letter nor the email were
14 returned undelivered. Deveny did not respond to either method of communication.

15 27.

16 On or about February 8, 2018, DCO filed a motion with the Disciplinary Board
17 pursuant to BR 7.1, a copy of which was properly served on Deveny, requesting that
18 Deveny be suspended for failing to respond to DCO's inquiries. The motion provided
19 Deveny with additional notification of the need to respond to DCO's requests for
20 information about her conduct. Deveny did not respond. On or about February 22, 2018,
21 an order of suspension was signed by the Disciplinary Board Adjudicator, a copy of which
22 was sent to Deveny. She did not respond.

23 28.

24 The aforesaid conduct of Deveny constituted failure to respond to a lawful demand
25 from a disciplinary authority, in violation of the following standard of professional

1 conduct established by law and by the Bar: RPC 8.1(a)(2) of the Oregon Rules of
2 Professional Conduct.

3
4 **Case No. 18-11**
Margaret Medley Complaint

5 AND, for its FOURTH CAUSE OF COMPLAINT against Deveny, the Bar alleges:

6 29.

7 Realleges and incorporates by reference the allegations of paragraphs 1, 2 and 4
8 of its First Cause of Complaint as if fully set forth herein.

9 30.

10 In or around September 2015, Margaret D. Medley (“Medley”) hired Deveny to
11 represent her in connection with personal injury claims from a July 22, 2015 incident,
12 where a motor vehicle struck Medley while Medley was crossing the street in her electric
13 wheelchair. The driver was insured by State Farm Mutual Automobile Insurance Company
14 (“State Farm”).

15 31.

16 In or around November 2016, Medley received notice directly from Medicare that
17 they were seeking to recover their medical expenses from the eventual settlement of the
18 case, which at that time were approximately \$500.

19 32.

20 In or prior to January 2017, without prior to notice to or permission from Medley,
21 Deveny agreed to settled Medley’s claims with State Farm for \$20,000 (“Medley
22 Settlement”). Medley was not asked to, and did not sign, a settlement agreement.

23 33.

24 On or about January 9, 2017, State Farm issued a check in the amount of \$20,000
25 payable to “MARGARET DIANE MEDLEY, A SINGLE INDIVIDUAL & LAW OFFICES OF LORI E.

1 DEVENY, HER ATTORNEY," and sent it to Deveny ("Medley Settlement Funds"). Deveny
2 knowingly and intentionally failed to disclose to Medley her settlement with State Farm
3 without Medley's authority, her receipt of the Medley Settlement Funds, or the amount
4 of the Medley Settlement Funds, information which was necessary for Medley to be able
5 to make informed decisions about her case from that point forward.

6 34.

7 On or about January 19, 2017, Deveny knowingly and intentionally forged Medley's
8 endorsement on the State Farm check and deposited the Medley Settlement Funds into
9 her IOLTA Account. Deveny did not provide any portion of the Medley Settlement Funds
10 to Medley.

11 35.

12 At all times relevant herein, ORS 165.013 provided that a person commits the
13 crime of forgery in the first degree (a Class C Felony) if, with the intent to injure or defraud,
14 the person falsely makes, completes or alters a check for \$1,000 or more; or utters a
15 check for \$1,000 or more which the person knows to be forged. At all times relevant
16 herein, ORS 165.002 provided that to "utter" means to issue, deliver, publish, circulate,
17 disseminate, transfer or tender a written instrument or other object to another.

18 36.

19 In or around March 2017, Medley learned from Medicare that a settlement of her
20 case had been reported to them. Medicare indicated that they were now seeking just
21 under \$640 from the proceeds and that Medley's monthly benefits would be garnished if
22 she failed to pay that amount.

23 37.

24 Upon being contacted by Medicare, Medley attempted to reach Deveny by
25 telephone. In or around April 2017, Deveny returned Medley's call(s) and represented to

1 her that she had obtained a \$14,000 settlement from State Farm, that Medley could
2 expect to receive approximately \$9,000, and that Deveny would take care of paying off
3 the Medicare balance. Deveny's representations to Medley about the amount of the
4 settlement and about the amount of money she had in her possession that represented
5 settlement funds were false and material and she knew that they were false and material
6 when she made them.

7 38.

8 In or around June or July 2017, Deveny told Medley that it would take a couple
9 weeks to finish the paperwork and get Medley paid her portion of the settlement.

10 39.

11 Hearing nothing further, in or around September 2017, Medley tried to reach
12 Deveny by telephone. Deveny did not return her calls.

13 40.

14 On or about October 4, 2017, without notice to or permission from Medley,
15 Deveny initiated a civil action against Medley's insurance carrier, State Farm, for breach of
16 contract in allegedly failing to pay Medley's Personal Injury Protection (PIP) claim of
17 approximately \$4,500 ("PIP Action"). Deveny did not provide Medley with a copy of the
18 civil complaint.

19 41.

20 Between approximately October 2, 2017, and October 10, 2017, Medley contacted
21 Medicare to determine whether they had been paid. Medicare conveyed to her that they
22 had been paid on October 2, 2017. They further informed Medley that the Medley
23 Settlement amount had been reported to them as \$20,000.

1 42.

2 Shortly after learning of the settlement details from Medicare, Medley contacted
3 State Farm for additional information about the Medley Settlement but was told that they
4 were not able to communicate with her because she was still represented by Deveny. All
5 they could confirm was that the case was closed and that a check had been sent to Deveny
6 long enough prior for Medley to have received it by that time.

7 43.

8 From approximately October 10, 2017 to October 20, 2017, Medley attempted to
9 reach Deveny by telephone without success. On or about October 20, 2017, Medley
10 contacted the Bar's Client Assistance Office ("CAO") for help in reaching Deveny.

11 44.

12 In response to a phone call from CAO, Deveny telephoned Medley on or about
13 October 20, 2017, and reported to her that she was waiting for the attorney from State
14 Farm to call about the PIP Action in order to pay Medley her portion of the Medley
15 Settlement Funds. Deveny represented that everything would be wrapped up by October
16 27, 2017—when the call with the State Farm attorney was scheduled to occur.

17 45.

18 On or about October 27, 2017, Deveny notified Medley in writing that the State
19 Farm attorney failed to keep their October 27, 2017 scheduled call, so the PIP Action and
20 her medical bills remained unresolved (and therefore presumably the disbursement of any
21 portion of the Medley Settlement Funds).

22 46.

23 Beginning on or about November 14, 2017, until on or about November 29, 2017,
24 Medley telephoned Deveny's office daily to determine the status of her matter and the
25 disposition of the Medley Settlement Funds. Deveny did not return any of her calls.

1 47.

2 At various times throughout the representation, Medley requested a copy of the
3 Medley Settlement agreement and the PIP Action but Deveny told her she was not
4 permitted to have them until everything was finalized.

5 48.

6 In or around mid-April 2018 (after being personally served with the Bar's Formal
7 Complaint), Deveny tendered Medley a check allegedly representing Medley's portion of
8 the Medley Settlement Funds.

9 49.

10 The aforesaid conduct of Deveny constituted failure to keep her client reasonably
11 informed of the status of her matter; a failure to explain a matter to the extent reasonably
12 necessary to permit the client to make informed decisions regarding the representation;
13 failure to notify a client of receipt of funds in which a client has an interest and failure to
14 promptly deliver client funds which the client was entitled to receive; criminal conduct
15 reflecting adversely on her honesty, trustworthiness, or fitness as a lawyer (forgery); and
16 conduct involving dishonesty and misrepresentation (forgery and series of false
17 representations directed at and a scheme to mislead her client), in violation of the
18 following standards of professional conduct established by law and by the Bar:

- 19 A. RPC 1.4(a);
20 B. RPC 1.4(b);
21 C. RPC 1.15-1(d);
22 D. RPC 8.4(a)(2); and
23 E. RPC 8.4(a)(3) of the Oregon Rules of Professional Conduct.

1 AND, for its FIFTH CAUSE OF COMPLAINT against Deveny, the Bar alleges:

2 50.

3 Realleges and incorporates by reference the allegations of paragraphs 1, 2 and 4
4 of its First Cause of Complaint, and the allegations of its Fourth Cause of Complaint, as if
5 fully set forth herein.

6 51.

7 At all relevant times herein, Medley is and was a person 65 years or older.

8 52.

9 Between on or about January 19, 2017, and March 31, 2017, Deveny knowingly
10 and intentionally removed all, or nearly all, of the Medley Settlement Funds from her
11 IOLTA Account and knowingly and intentionally converted them to her own personal use,
12 and for matters unrelated to Medley or her legal matter.

13 53.

14 At all times relevant herein, ORS 164.057 provided, in relevant part, that a person
15 commits the crime of aggravated theft in the first degree (a Class B felony) if, with intent
16 to deprive another of property or to appropriate property to the person, the person takes,
17 appropriates, obtains or withholds such property from an owner thereof, and the total
18 value of the property in a single or aggregate transaction is \$10,000 or more.

19 54.

20 The aforesaid conduct of Deveny constituted criminal conduct reflecting adversely
21 on her honesty, trustworthiness, or fitness as a lawyer; and conduct involving fraud,
22 dishonest, deceit or misrepresentation (knowing conversion of client funds), in violation
23 of the following standards of professional conduct established by law and by the Bar:

24 A. RPC 8.4(a)(2); and

25 B. RPC 8.4(a)(3) of the Oregon Rules of Professional Conduct.

1 AND, for its SIXTH CAUSE OF COMPLAINT against Deveny, the Bar alleges:

2 55.

3 Realleges and incorporates by reference the allegations of paragraphs 1 and 2 of
4 its First Cause of Complaint, paragraphs 25 and 26 of its Third Cause of Complaint, and
5 the allegations of its Fourth and Fifth Causes of Complaint, as if fully set forth herein.

6 56.

7 On or about November 29, 2017, DCO received a complaint from Medley about
8 Deveny's conduct. By letter dated December 6, 2017, DCO requested Deveny's response
9 to this complaint. The letter was addressed to Deveny at the record address and was sent
10 by first class mail. The letter was not returned undelivered, and Deveny did not respond
11 to the letter.

12 57.

13 By letter dated January 19, 2018, DCO again requested Deveny's response to
14 Medley's complaint. The letter was addressed to Deveny at the record address and was
15 sent by both first class and by certified mail, return receipt requested. The letter was also
16 sent to the record email address. The certified letter was returned "unclaimed" but
17 neither the first class letter nor the email were returned undelivered. Deveny did not
18 respond to either method of communication.

19 58.

20 On or about February 8, 2018, DCO filed a motion with the Disciplinary Board
21 pursuant to BR 7.1, a copy of which was properly served on Deveny, requesting that
22 Deveny be suspended for failing to respond to DCO's inquiries. The motion provided
23 Deveny with additional notification of the need to respond to DCO's requests for
24 information about her conduct. Deveny did not respond. On or about February 22, 2018,
25

1 an order of suspension was signed by the Disciplinary Board Adjudicator, a copy of which
2 was sent to Deveny. She did not respond.

3 59.

4 The aforesaid conduct of Deveny constituted failure to respond to a lawful demand
5 from a disciplinary authority, in violation of the following standard of professional
6 conduct established by law and by the Bar: RPC 8.1(a)(2) of the Oregon Rules of
7 Professional Conduct.

8
9 **Case No. 18-12**
Tim Nay & Nancy Freyer Complaint

10 AND, for its SEVENTH CAUSE OF COMPLAINT against Deveny, the Bar alleges:

11 60.

12 Realleges and incorporates by reference the allegations of paragraphs 1, 2 and 4
13 of its First Cause of Complaint as if fully set forth herein.

14 61.

15 In or around July 2012, Nancy Freyer ("Freyer") hired Deveny to represent her in
16 connection with personal injury claims from a February 3, 2012 surgery on her foot, which
17 left her debilitated and in a wheelchair.

18 62.

19 Immediately after retaining Deveny, Freyer began keeping an annotated journal of
20 important dates and appointments related to her surgery ("Freyer Journal") which she
21 submitted to Deveny on a regular basis per her instruction on how to maintain
22 attorney/client confidence, and for Deveny's use in prosecuting her claims. Without
23 notice to, or approval from Freyer, Deveny provided the Freyer Journal to opposing
24 counsel. Freyer only became aware of Deveny's disclosure of the Freyer Journal when she
25 was confronted with entries from it at her deposition.

1 63.

2 On or about February 3, 2014, without notice to or prior approval from Freyer as
3 to the form or substance of the complaint, Deveny filed a medical malpractice action on
4 behalf of Freyer in Multnomah County against the doctor who performed the surgery and
5 the clinic where the surgery was performed. Deveny did not provide Freyer with a copy
6 of the civil complaint until just prior to Freyer's deposition.

7 64.

8 On or about September 28, 2015, the defendants filed a Motion for Summary
9 Judgment ("MSJ"). On or about October 26, 2015, in response to the MSJ, Deveny filed
10 Plaintiff's Response to Defendants' Motion for Summary Judgment, supported by her
11 Declaration of Counsel in which she declared, under oath:

12 " . . .

- 13 2. Plaintiff's expert has received and reviewed all of the medical
14 documents in this claim;
15 3. Plaintiff's expert is qualified to testify as an expert in the field of
16 Podiatric Medicine;
17 4. Plaintiff's expert will testify that to reasonable degree of medical
18 probability that the medical care provided by Defendant [Dr.] Tillett
19 failed to meet the applicable standard of care in this locale as
20 provided by a reasonably prudent physician; and
21 5. Plaintiff's expert will testify that to a reasonable degree of medical
22 probability the care provided by Defendant [Dr.] Tillett caused
23 damage to Plaintiff."

24 The foregoing statements by Deveny were false and material and she knew that
25 they were false and material at the time that she made them and filed them with the
court. Deveny intended that the defendants and the court rely on her false
representations to defeat the MSJ. And they did.

1 65.

2 Trial was set for June 20, 2016. Shortly before the trial date, Deveny informed
3 Freyer that she had 24 hours in which to decide whether to accept the defendants'
4 purported offer of \$27,000 or go to trial. During the same conversation, Deveny told
5 Freyer for the first time that it would cost her \$30,000 to obtain a medical evaluation from
6 an expert who could testify at trial. This was more than six months after Deveny had
7 reported to the court that she had an expert who had already reviewed the file and was
8 prepared to testify for Freyer. Freyer agreed to settle.

9 66.

10 On or about June 12, 2016, Freyer and Deveny executed a settlement agreement.
11 On and after June 12, 2016, Freyer repeatedly requested that Deveny provide her with a
12 copy of the settlement agreement. Deveny did not provide Freyer with a copy of the
13 settlement agreement until late November 2016.

14 67.

15 On or about June 15, 2016, the medical malpractice case was dismissed. On or
16 about June 17, 2016, defense counsel sent Deveny a check for \$23,000 ("Freyer
17 Settlement Funds") —which represented the settlement amount of \$27,000 less \$4,000
18 withheld for payment of Freyer's anticipated Medicare Lien ("Freyer Medicare Lien").
19 Freyer was unaware of the Freyer Medicare Lien until Deveny had her sign the settlement
20 agreement. Deveny knowingly and intentionally failed to disclose to Freyer her receipt of
21 the Freyer Settlement Funds, information which was necessary for Freyer to be able to
22 make informed decisions about her case from that point forward.

23 68.

24 On or about June 17, 2017, Deveny knowingly and intentionally forged Freyer's
25 endorsement on the settlement check and deposited the Freyer Settlement Funds into

1 her IOLTA Account. Deveny did not provide any portion of the Freyer Settlement Funds
2 to Freyer.

3 69.

4 At all times relevant herein, ORS 165.013 provided that a person commits the
5 crime of forgery in the first degree (a Class C Felony) if, with the intent to injure or defraud,
6 the person falsely makes, completes or alters a check for \$1,000 or more; or utters a
7 check for \$1,000 or more which the person knows to be forged. At all times relevant
8 herein, ORS 165.002 provided that to “utter” means to issue, deliver, publish, circulate,
9 disseminate, transfer or tender a written instrument or other object to another.

10 70.

11 Under the settlement agreement, Deveny was to obtain and provide the
12 defendants with a final payment demand from Medicare setting forth the amount of the
13 Freyer Medicare Lien, which defendants would pay directly to Medicare from the portion
14 of the Freyer Settlement Funds they had retained for that purpose (\$4,000). Any balance
15 remaining from the withheld funds after payment of the Freyer Medicare Lien was to be
16 given to Deveny for Freyer.

17 71.

18 On or about March 6, 2017, Freyer made a written request of Deveny for an
19 accounting of the Freyer Settlement Funds. That same day, Deveny sent a letter to Freyer
20 indicating that she was appealing the Freyer Medicare Lien decision (so purportedly she
21 was still unable to provide her with any portion of the Freyer Settlement Funds). To the
22 extent that Deveny stated or implied that she was unable to provide Freyer with any of
23 the Freyer Settlement Funds based upon the Freyer Medicare Lien, that representation
24 was false and material and Deveny knew that it was false and material at the time that
25 she made it.

1 72.

2 On or about April 24, 2017, Deveny met with Freyer and told her that Deveny was
3 unable to provide her with the Freyer Settlement Funds until the Freyer Medicare Lien
4 was resolved. This assertion to Freyer was false and material and Deveny knew that it was
5 false and material when she made it, as the defendants were holding sufficient funds to
6 be used to pay the Freyer Medicare Lien, a fact which was known to Deveny.

7 73.

8 Between June 2016 and July 2017, Deveny failed to provide the defendants with a
9 final payment demand from Medicare setting forth the amount of Freyer Medicare Lien.
10 During this same time, Deveny continued to assert to Freyer that she could not provide
11 her with any portion of the Freyer Settlement Funds until the Freyer Medicare Lien was
12 resolved.

13 74.

14 In or around May 2017, Freyer hired attorney Tim Nay ("Nay") to help resolve the
15 unpaid Freyer Medicare Lien, which was accumulating statutory interest and for which
16 Freyer was now receiving threats of garnishment from Medicare and the Department of
17 Treasury.

18 75.

19 Between May 2017 and December 2017, Nay made numerous requests that
20 Deveny provide a final payment demand from Medicare setting forth the amount of
21 Freyer Medicare Lien and an accounting of the Freyer Settlement Funds. Deveny provided
22 various excuses for her inability to comply with Nay's requests but did not provide the
23 final amount of the Freyer Medicare Lien or an accounting of the Freyer Settlement Funds.
24
25

1 76.

2 On or about December 13, 2017, Nay contacted the Oregon State Bar's Client
3 Assistance Office regarding his and Freyer's concerns about Deveny's conduct. On or
4 about December 15, 2017, Deveny was provided a copy of Nay's complaint, along with
5 notice that the matter was being referred to Disciplinary Counsel's Office ("DCO"). That
6 same day, Deveny provided a cursory accounting of \$27,000 in Freyer Settlement Funds
7 to Nay, and paid Nay \$10,245.20 in purported Freyer Settlement Funds.

8 77.

9 The actual costs associated with Freyer's case were less than \$1,000. Deveny's
10 accounting deducted costs of \$4,610.12 from the remitted funds, without explanation or
11 verification. Deveny's representation to Freyer and Nay that costs were more than four
12 times the true costs was false and material and Deveny knew that it was false and material
13 at the time that she made it.

14 78.

15 To date, Freyer has not been provided any additional explanation or verification
16 regarding the costs deducted from the Freyer Settlement Funds, nor has she been paid
17 any portion of the purported costs Deveny withheld from the Freyer Settlement Funds.

18 79.

19 The aforesaid conduct of Deveny constituted neglect of her client's legal matter;
20 failure to keep her client reasonably informed of the status of her matter; a failure to
21 explain a matter to the extent reasonably necessary to permit the client to make informed
22 decisions regarding the representation; failure to account for and to promptly deliver
23 client funds which the client was entitled to receive; a knowing false statement to the
24 court; criminal conduct reflecting adversely on her honesty, trustworthiness, or fitness as
25 a lawyer (forgery); and conduct involving dishonesty and misrepresentation (forgery and

1 false representations to her client and others), in violation of the following standards of
2 professional conduct established by law and by the Bar:

- 3 A. RPC 1.3:
- 4 B. RPC 1.4(a);
- 5 C. RPC 1.4(b);
- 6 D. RPC 1.15-1(d);
- 7 E. RPC 3.3(a);
- 8 F. RPC 8.4(a)(2); and
- 9 G. RPC 8.4(a)(3) of the Oregon Rules of Professional Conduct.

10
11 AND, for its EIGHTH CAUSE OF COMPLAINT against Deveny, the Bar alleges:

12 80.

13 Realleges and incorporates by reference the allegations of paragraphs 1, 2 and 4
14 of its First Cause of Complaint, and the allegations of its Seventh Cause of Complaint, as
15 if fully set forth herein.

16 81.

17 Between on or about June 17, 2016, and September 30, 2016, Deveny knowingly
18 and intentionally removed all, or nearly all, of the Freyer Settlement Funds from her IOLTA
19 Account and knowingly and intentionally converted them to her own personal use, and
20 for matters unrelated to Freyer or her legal matter.

21 82.

22 At all times relevant herein, ORS 164.057 provided, in relevant part, that a person
23 commits the crime of aggravated theft in the first degree (a Class B felony) if, with intent
24 to deprive another of property or to appropriate property to the person, the person takes,
25

1 appropriates, obtains or withholds such property from an owner thereof, and the total
2 value of the property in a single or aggregate transaction is \$10,000 or more.

3 83.

4 The aforesaid conduct of Deveny constituted criminal conduct reflecting adversely
5 on her honesty, trustworthiness, or fitness as a lawyer; and conduct involving fraud,
6 dishonest, deceit or misrepresentation (knowing conversion of client funds), in violation
7 of the following standards of professional conduct established by law and by the Bar:

8 A. RPC 8.4(a)(2); and

9 B. RPC 8.4(a)(3) of the Oregon Rules of Professional Conduct.

10
11 AND, for its NINTH CAUSE OF COMPLAINT against Deveny, the Bar alleges:

12 84.

13 Realleges and incorporates by reference the allegations of paragraphs 1 and 2 of
14 its First Cause of Complaint, paragraphs 25 and 26 of its Third Cause of Complaint, and
15 the allegations of its Seventh and Eighth Causes of Complaint, as if fully set forth herein.

16 85.

17 On or about December 15, 2017, DCO received a complaint from Nay about
18 Deveny's conduct. By letter dated December 21, 2017, DCO requested Deveny's response
19 to this complaint. The letter was addressed to the record address and was sent by first
20 class mail. The letter was not returned undelivered, and Deveny did not respond to the
21 letter.

22 86.

23 By letter dated January 19, 2018, DCO again requested Deveny's response to Nay's
24 complaint. The letter was addressed to Deveny at the record address and was sent by
25 both first class and by certified mail, return receipt requested. The letter was also sent to

1 the record email address. The certified letter was returned “unclaimed” but neither the
2 first class letter nor the email were returned undelivered. Deveny did not respond to
3 either method of communication.

4 87.

5 On or about February 8, 2018, DCO filed a motion with the Disciplinary Board
6 pursuant to BR 7.1, a copy of which was properly served on Deveny, requesting that
7 Deveny be suspended for failing to respond to DCO’s inquiries. The motion provided
8 Deveny with additional notification of the need to respond to DCO’s requests for
9 information about her conduct. Deveny did not respond. On or about February 22, 2018,
10 an order of suspension was signed by the Disciplinary Board Adjudicator, a copy of which
11 was sent to Deveny. She did not respond.

12 88.

13 The aforesaid conduct of Deveny constituted failure to respond to a lawful demand
14 from a disciplinary authority, in violation of the following standard of professional
15 conduct established by law and by the Bar: RPC 8.1(a)(2) of the Oregon Rules of
16 Professional Conduct.

17
18 **Case No. 18-61**
19 **Ginger Clausen Complaint**

20 AND, for its TENTH CAUSE OF COMPLAINT against Deveny, the Bar alleges:

21 89.

22 Realleges and incorporates by reference the allegations of paragraphs 1, 2 and 4
23 of its First Cause of Complaint, as if fully set forth herein.

1 90.

2 In or around August 2013, Ginger Clausen ("Clausen") was rear-ended at a light by
3 a pest-control vehicle. The at-fault driver was insured by Zurick American Insurance
4 Company ("Zurich").

5 91.

6 In or around December 2014, Clausen hired Deveny to represent her in connection
7 with the August 2013 accident. Specifically, she wanted Deveny to pursue her claims and
8 get her medical bills paid. Clausen gave Deveny all of her medical bills and Deveny assured
9 Clausen that she would take care of them.

10 92.

11 After undertaking to represent Clausen, Deveny took no substantial action with
12 respect to Clausen's medical bills, nor did she ensure that any of them were paid. During
13 this same time, Deveny did not notify Clausen that she would not be handling Clausen's
14 medical bills, nor provide Clausen with her medical bills, so that she could make
15 arrangements to handle them herself.

16 93.

17 In or around mid-August 2016, Clausen executed a settlement agreement with
18 Zurich for \$92,500 ("Clausen Settlement Funds"). Deveny did not provide Clausen with a
19 copy of the agreement. Deveny told Clausen that they would receive the Clausen
20 Settlement Funds "in a month or two."

21 94.

22 On or about August 15, 2016, Zurich issued a check in the amount of \$92,500
23 payable to "GINGER L. CLAUSEN AND HER ATTORNEY OF RECORD LAW OFFICE OF LORI
24 DEVENY" (the "Zurich check"), representing the Clausen Settlement Funds, and sent it to
25 Deveny. Deveny knowingly and intentionally failed to disclose to Clausen her receipt of

1 the Clausen Settlement Funds, information which was necessary for Clausen to be able to
2 make informed decisions about her case from that point forward.

3 95.

4 On or about August 19, 2016, Deveny knowingly and intentionally forged Clausen's
5 endorsement on the Zurich check and deposited the Clausen Settlement Funds into her
6 IOLTA Account. Deveny did not provide any portion of the Clausen Settlement Funds to
7 Clausen.

8 96.

9 At all times relevant herein, ORS 165.013 provided that a person commits the
10 crime of forgery in the first degree (a Class C Felony) if, with the intent to injure or defraud,
11 the person falsely makes, completes or alters a check for \$1,000 or more; or utters a
12 check for \$1,000 or more which the person knows to be forged. At all times relevant
13 herein, ORS 165.002 provided that to "utter" means to issue, deliver, publish, circulate,
14 disseminate, transfer or tender a written instrument or other object to another.

15 97.

16 In or around early October 2016, Clausen learned that Deveny had received the
17 Clausen Settlement Funds from Zurich.

18 98.

19 Thereafter, Deveny told Clausen that Clausen's receipt of her portion of the
20 Clausen Settlement Funds would "take a little time," because there was purportedly a
21 medical lien on them by Clausen's health insurance company, Cigna. Deveny said Cigna
22 was holding up the full \$92,500 because they were the insurance company and they
23 could. Clausen repeatedly asked for a copy of Cigna's lien but Deveny never provided it.
24 Deveny's representations regarding her inability to provide Clausen with any of the
25

1 Clausen Settlement Funds were false and material and Deveny knew that they were false
2 and material when she made them.

3 99.

4 Between October 2016 and April 2017, Clausen failed to respond to a number of
5 phone messages from Clausen inquiring about the status of her matter and the Clausen
6 Settlement Funds. When Clausen was able to reach Deveny directly, Deveny asserted that
7 the delay was caused by Cigna. For example, Deveny claimed on one occasion that Cigna
8 had “put someone else on the file,” and that subsequent delay was caused by the
9 company being bought out. These representations regarding the reasons that Deveny was
10 unable to pay Clausen any portion of the Clausen Settlement Funds were false and
11 material and Deveny knew that they were false and material at the time that she made
12 them.

13 100.

14 In or around mid-April 2017, Deveny represented to Clausen that she had traveled
15 back east to Cigna’s office to personally visit with Cigna and advocate for a release of the
16 Clausen Settlement Funds on Clausen’s behalf. Deveny further asserted that her efforts
17 had resulted in Cigna’s agreement to release \$10,000 of the Clausen Settlement Funds.
18 These representations to Clausen were false and material and Deveny knew that they
19 were false and material when she made them.

20 101.

21 On or about April 20, 2017, the balance in Deveny’s IOLTA account was \$2,358.33.
22 On or about April 21, 2017, Deveny transferred funds in the amount of \$10,000 from her
23 business checking account into her IOLTA Account. That same day, Deveny transferred
24 funds in the amount of \$10,000 from her IOLTA Account to Clausen, intending Clausen to
25 believe that the funds had been released by Cigna as a result of her efforts. Deveny has

1 not accounted for or provided Clausen with any other amounts from the Clausen
2 Settlement Funds.

3 102.

4 Beginning in October 2016, Deveny told Clausen a number of times that she should
5 have her portion of the Clausen Settlement Funds “by the end of the month,” the most-
6 recent time was in December 2017. She never heard from Deveny again.

7 103.

8 The aforesaid conduct of Deveny constituted neglect of her client’s legal matter;
9 failure to keep her client reasonably informed of the status of her matter; a failure to
10 explain a matter to the extent reasonably necessary to permit the client to make informed
11 decisions regarding the representation; failure to notify a client of receipt of funds in
12 which a client has an interest, failure to account for and to promptly deliver client funds
13 which the client was entitled to receive; a knowing false statement to the court; criminal
14 conduct reflecting adversely on her honesty, trustworthiness, or fitness as a lawyer
15 (forgery); and conduct involving dishonesty and misrepresentation (forgery and series of
16 false representations directed at and a scheme to mislead her client), in violation of the
17 following standards of professional conduct established by law and by the Bar:

18 A. RPC 1.3:

19 B. RPC 1.4(a);

20 C. RPC 1.4(b);

21 D. RPC 1.15-1(d);

22 E. RPC 3.3(a);

23 F. RPC 8.4(a)(2); and

24 G. RPC 8.4(a)(3) of the Oregon Rules of Professional Conduct.

1 AND, for its ELEVENTH CAUSE OF COMPLAINT against Deveny, the Bar alleges:

2 104.

3 Realleges and incorporates by reference the allegations of paragraphs 1, 2, and 4
4 of its First Cause of Complaint, and the allegations of its Tenth Cause of Complaint, as if
5 fully set forth herein.

6 105.

7 Between on or about August 19, 2016, and September 30, 2016, Deveny knowingly
8 and intentionally removed all, or nearly all, of the Clausen Settlement Funds from her
9 IOLTA Account and knowingly and intentionally converted them to her own personal use,
10 and for matters unrelated to Clausen or her legal matter.

11 106.

12 At all times relevant herein, ORS 164.057 provided, in relevant part, that a person
13 commits the crime of aggravated theft in the first degree (a Class B felony) if, with intent
14 to deprive another of property or to appropriate property to the person, the person takes,
15 appropriates, obtains or withholds such property from an owner thereof, and the total
16 value of the property in a single or aggregate transaction is \$10,000 or more.

17 107.

18 The aforesaid conduct of Deveny constituted criminal conduct reflecting adversely
19 on her honesty, trustworthiness, or fitness as a lawyer; and conduct involving fraud,
20 dishonest, deceit or misrepresentation (knowing conversion of client funds), in violation
21 of the following standards of professional conduct established by law and by the Bar:

22 A. RPC 8.4(a)(2); and

23 B. RPC 8.4(a)(3) of the Oregon Rules of Professional Conduct.

1 AND, for its TWELFTH CAUSE OF COMPLAINT against Deveny, the Bar alleges:

2 108.

3 Realleges and incorporates by reference the allegations of paragraphs 1 and 2 of
4 its First Cause of Complaint, paragraphs 25 and 26 of its Third Cause of Complaint, and
5 the allegations of its Tenth and Eleventh Causes of Complaint, as if fully set forth herein.

6 109.

7 On or about March 15, 2018, DCO received a complaint from Clausen, via a Client
8 Security Fund Claim, about Deveny's conduct. By letter dated March 26, 2018, DCO
9 requested Deveny's response to this complaint. The letter was addressed to Deveny at
10 the record address and was sent by first class mail. The letter was not returned
11 undelivered, and Deveny did not respond to the letter.

12 110.

13 By letter dated April 17, 2018, DCO again requested Deveny's response to
14 Clausen's complaint. The letter was addressed to Deveny at the record address and was
15 sent by both first class and by certified mail, return receipt requested. The letter was also
16 sent to the record email address. The certified letter was not returned "unclaimed" and
17 neither the first class letter nor the email were returned undelivered. Deveny did not
18 respond to any of the communications.

19 111.

20 The aforesaid conduct of Deveny constituted failure to respond to a lawful demand
21 from a disciplinary authority, in violation of the following standard of professional
22 conduct established by law and by the Bar: RPC 8.1(a)(2) of the Oregon Rules of
23 Professional Conduct.

1 **Case No. 18-62**
2 **Barbara Getty Complaint**

3 AND, for its THIRTEENTH CAUSE OF COMPLAINT against Deveny, the Bar alleges:

4 112.

5 Realleges and incorporates by reference the allegations of paragraphs 1, 2 and 4
6 of its First Cause of Complaint, as if fully set forth herein.

7 113.

8 On or about January 26, 2012, Barbara Getty ("Getty"), was run down in a parking
9 lot by a small van belonging to Canteen Vending Services ("Canteen"). Canteen was
10 insured by National Union Fire ("National"). Getty suffered injuries and incurred
11 approximately \$6,400 in medical expenses, which were paid by her own insurer, State
12 Farm Mutual Automobile Insurance Company ("State Farm"), when they were unable to
13 collect from Canteen.

14 114.

15 On or about January 30, 2012, Getty hired Deveny to assist her with recovering for
16 her injuries against all responsible parties.

17 115.

18 Over the course of the representation, Getty sent Deveny numerous faxes, and left
19 her dozens of voicemails, inquiring about the status of her legal matter. Initially, Deveny
20 would reply occasionally. However, as the representation went on, Deveny responded to
21 fewer and fewer of Getty's inquiries.

22 116.

23 On or about June 26, 2013, National sent \$30,000 to Deveny on behalf of Getty in
24 settlement of Getty's claims. The check was made payable to "LORI E DEVENY IN TRUST
25 FOR BARBARA GETTY." ("Getty Settlement Funds"). Deveny endorsed the check and

1 deposited the Getty Settlement Funds into her IOLTA Account. Deveny knowingly and
2 intentionally failed to disclose to Getty her receipt of the Getty Settlement Funds and the
3 amount of the Getty Settlement Funds, information which was necessary for Getty to be
4 able to make informed decisions about her case from that point forward. Deveny did not
5 provide any portion of the Getty Settlement Funds to Getty.

6 117.

7 When Getty became aware that Deveny had received the Getty Settlement Funds,
8 she regularly contacted Deveny regarding the status of the Getty Settlement Funds.
9 Deveny rarely responded but, when she did so, she repeatedly claimed that the Getty
10 Settlement Funds were being held up by a Medicare or Medicaid lien for her medical
11 expenses. Given that all of Getty's medical expenses had already been paid by State Farm,
12 these representations by Deveny regarding the delay in paying Getty her portion of the
13 Getty Settlement Funds were false and material and Deveny knew that they were false
14 and material at the time that she made them.

15 118.

16 In or around early 2018, Deveny told Getty that she had scheduled a joint phone
17 call with a government agency and Medicaid in San Francisco, to help resolve the
18 Medicaid lien on the Getty Settlement Funds. This representation to Getty was false and
19 material and Deveny knew that it was false and material when she made it.

20 119.

21 On or about March 16, 2018, Getty emailed Deveny and requested a copy of her
22 entire file. Deveny did not respond or provide Getty with her file.

23 120.

24 On or about April 19, 2018 (after being personally served with the Bar's Formal
25 Complaint), Deveny tendered Getty a check in the amount of \$19,820.35, allegedly

1 representing Getty's portion of the Getty Settlement Funds. Although Deveny withheld
2 1/3 fee of the Getty Settlement Funds as her fee and \$179.65 in unexplained costs, there
3 weres no other deductions, including any for the purported Medicare or Medicaid liens.

4 121.

5 The aforesaid conduct of Deveny constituted failure to keep her client reasonably
6 informed of the status of her matter; a failure to explain a matter to the extent reasonably
7 necessary to permit the client to make informed decisions regarding the representation;
8 failure to notify a client of receipt of funds in which a client has an interest and failure to
9 promptly deliver client funds which the client was entitled to receive; and conduct
10 involving dishonesty and misrepresentation (series of false representations directed at
11 and a scheme to mislead her client), in violation of the following standards of professional
12 conduct established by law and by the Bar:

- 13 A. RPC 1.4(a);
14 B. RPC 1.4(b);
15 C. RPC 1.15-1(d); and
16 D. RPC 8.4(a)(3) of the Oregon Rules of Professional Conduct.

17
18 AND, for its FOURTEENTH CAUSE OF COMPLAINT against Deveny, the Bar alleges:

19 122.

20 Realleges and incorporates by reference the allegations of paragraphs 1, 2 and 4
21 of its First Cause of Complaint, and the allegations of its Thirteenth Cause of Complaint,
22 as if fully set forth herein.

23 123.

24 At all relevant times herein, Getty is and was a person 65 years or older.
25

124.

Between on or about July 1, 2013, and August 31, 2013, Deveny knowingly and intentionally removed all, or nearly all, of the Getty Settlement Funds from her IOLTA Account and knowingly and intentionally converted them to her own personal use, and for matters unrelated to Getty or her legal matter.

125.

At all times relevant herein, ORS 164.057 provided, in relevant part, that a person commits the crime of aggravated theft in the first degree (a Class B felony) if, with intent to deprive another of property or to appropriate property to the person, the person takes, appropriates, obtains or withholds such property from an owner thereof, and the total value of the property in a single or aggregate transaction is \$10,000 or more.

126.

The aforesaid conduct of Deveny constituted criminal conduct reflecting adversely on her honesty, trustworthiness, or fitness as a lawyer; and conduct involving fraud, dishonest, deceit or misrepresentation (knowing conversion of client funds), in violation of the following standards of professional conduct established by law and by the Bar:

A. RPC 8.4(a)(2); and

B. RPC 8.4(a)(3) of the Oregon Rules of Professional Conduct.

AND, for its FIFTEENTH CAUSE OF COMPLAINT against Deveny, the Bar alleges:

127.

Realleges and incorporates by reference the allegations of paragraphs 1 and 2 of its First Cause of Complaint, paragraphs 25 and 26 of its Third Cause of Complaint, and the allegations of its Thirteenth and Fourteenth Causes of Complaint, as if fully set forth herein.

128.

On or about March 22, 2018, DCO received a complaint from Getty, via a Client Security Fund Claim, about Deveny's conduct. By letter dated March 26, 2018, DCO requested Deveny's response to this complaint. The letter was addressed to Deveny at the record address and was sent by first class mail. The letter was not returned undelivered, and Deveny did not respond to the letter.

129.

By letter dated March 29, 2018, DCO sent additional materials to Deveny that were received from Getty in connection with her complaint against Deveny. DCO also reminded Deveny of her need to respond to its March 26, 2018 inquiry by April 9, 2018. The letter was addressed to Deveny at the record address and was sent by first class mail. The letter was not returned undelivered, and Deveny did not respond to the letter.

130.

By letter dated April 12, 2018, DCO again requested Deveny's response to Clausen's complaint. The letter was addressed to Deveny at the record address and was sent by both first class and by certified mail, return receipt requested. The letter was also sent to the record email address. The certified letter was not returned "unclaimed" and neither the first class letter nor the email were returned undelivered. Deveny did not respond to any of the communications.

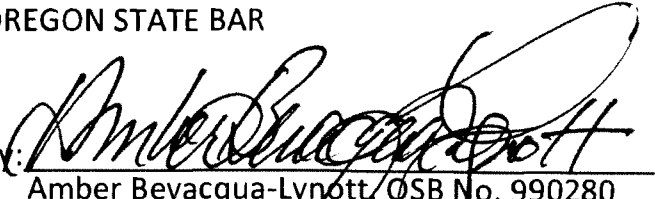
131.

The aforesaid conduct of Deveny constituted failure to respond to a lawful demand from a disciplinary authority, in violation of the following standard of professional conduct established by law and by the Bar: RPC 8.1(a)(2) of the Oregon Rules of Professional Conduct.

1 WHEREFORE, the Bar demands that Deveny make answer to this amended
2 complaint; that a hearing be set concerning the charges made herein; that the matters
3 alleged herein be fully, properly and legally determined; and pursuant thereto, such
4 action be taken as may be just and proper under the circumstances.

5
6 EXECUTED this 10th day of May, 2018.

7 OREGON STATE BAR

8
9 By: 
10 Amber Bevacqua-Lynott, OSB No. 990280
11 Chief Assistant Disciplinary Counsel
12
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1 **CERTIFICATE OF FILING AND SERVICE**

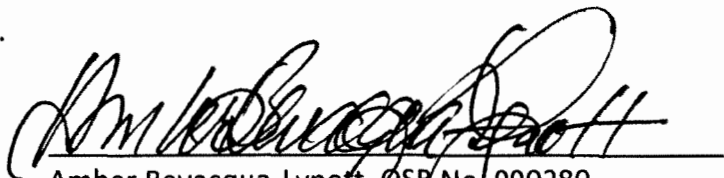
2
3 I hereby certify that I filed the foregoing FIRST AMENDED FORMAL COMPLAINT on the
4 10th day of May, 2018, by submitting the electronic form in Portable Document Format (PDF) to:

5 Disciplinary Board Clerk
6 Oregon State Bar
7 16037 SW Upper Boones Ferry Road
8 Post Office Box 231935
9 Tigard, OR 97281-1935
10 dbclerk@osbar.org

11 I hereby certify I served the foregoing FIRST AMENDED FORMAL COMPLAINT on the 10th day
12 of May, 2018, by email and by mailing a true copy by first class mail, with postage prepaid, through
13 the United States Postal Service to:

14 Wayne Mackeson
15 Wayne Mackeson PC
16 714 Main Street, Ste. 201
17 Oregon City, OR 97045
18 waynemackeson@waynemackeson.com

19 Dated this 10th day of May, 2018.

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Amber Bevacqua-Lynott, OSB No 990280
Chief Assistant Disciplinary Counsel